

have been granted by the Commission, if the filings comply with the terms of the waivers;

(ii) Reject a contingency plan regarding shortages of electric energy or capacity, unless accompanied by a request for waiver in conformity with §385.2001 of this chapter, if it fails patently to comply with applicable statutory requirements and with all applicable Commission rules, regulations and orders;

(iii) Sign and issue deficiency letters;

(iv) Act on any request or petition for waiver, consistent with Commission policy.

(2) *Section 215 of the Federal Power Act.*

(i) Approve uncontested applications, including uncontested revisions to Electric Reliability Organization or Regional Entity rules or procedures;

(ii) Reject an application, unless accompanied by a request for waiver in conformity with §385.2001 of this chapter, if it fails patently to comply with applicable statutory requirements or with all applicable Commission rules, regulations or orders;

(iii) Act on any request or petition for waiver, consistent with Commission policy;

(iv) Sign and issue deficiency letters; and

(v) Direct the Electric Reliability Organization, Regional Entities, or users, owners, and operators of the Bulk-Power System within the United States (not including Alaska and Hawaii) to provide such information as is necessary to implement Section 215 of the Federal Power Act (16 U.S.C. 824o) pursuant to §§39.2(d) and 39.11 and Part 40 of this chapter.

(b) *Non-Program-Specific Delegated Authority:*

(1) Take appropriate action on:

(i) Any notice of intervention or motion to intervene filed in an uncontested proceeding processed by the Office of Electric Reliability; and

(ii) Applications for extensions of time to file required filings, reports, data and information and to perform other acts required at or within a specific time by any rule, regulation, license, permit, certificate, or order by the Commission.

(2) Take appropriate action on requests or petitions for waivers of filing requirements for the appropriate statements and reports processed by the Office of Electric Reliability pursuant to §§141.51 and 141.300 of this chapter; and

(3) Undertake the following actions:

(i) Issue reports for public information purposes. Any report issued without Commission approval must:

(A) Be of a noncontroversial nature, and

(B) Contain the statement, "This report does not necessarily reflect the views of the Commission," in bold face type on the cover;

(ii) Upon request or otherwise, issue staff position papers to further the Electric Reliability Organization and Regional Entity reliability standard development process. Any such staff position paper issued without Commission approval must contain the statement, "This position paper does not necessarily reflect the views of the Commission," in bold face type on the cover;

(iii) Issue and sign requests for additional information regarding applications, filings, reports and data processed by the Office of Electric Reliability.

(iv) Accept for filing, data and reports required by Commission regulations, rules or orders, or presiding officers' initial decisions upon which the Commission has taken no further action, if such filings are in compliance with such regulations, rules, orders or decisions and, when appropriate, notify the filing party of such acceptance.

[Order 701, 72 FR 61054, Oct. 29, 2007]

PART 376—ORGANIZATION, MISSION, AND FUNCTIONS; OPERATIONS DURING EMERGENCY CONDITIONS

Subpart A—Organization, Mission, and Functions

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AUTHORITY: 5 U.S.C. 553; 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

SOURCE: 45 FR 21222, Apr. 1, 1980, unless otherwise noted.

Subpart A—Organization, Mission, and Functions

§ 376.101 Purpose.

This subpart sets forth the organization, mission and functions of the Commission, and its offices and divisions.

§ 376.102 Organization.

The Commission is established as an independent regulatory Commission within the DOE by the DOE Act. The Commission is composed of five members appointed by the President, by and with the advice and consent of the Senate. One of the members is designated by the President as the Chairman. To carry out its mission and functions, the Chairman has organized the Commission into a number of major offices, some of which are further organized into divisions and lower units. The organization of the Commission staff structure may be obtained from the Division of Public Information.

§ 376.103 Mission.

The Commission is responsible for developing, managing, and directing energy regulatory programs and activities assigned to it by statute, executive orders, or by the Secretary, DOE. The Chairman serves as the chief executive officer of the Commission and is responsible for the conduct of all Com-

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mission executive and administrative functions. In carrying out its mission, the Commission and its employees are not subject to the supervision or direction of any other official of DOE.

§ 376.104 Functions.

The functions of the Commission include:

- (a) All functions vested in the Commission under the DOE Act;
- (b) All functions delegated to the Commission by the Secretary of Energy in accordance with the DOE Act; and
- (c) All functions vested in the Commission by statute.

§ 376.105 Chairman.

(a) *Administrative head of agency.* The Chairman is the administrative head of the Commission.

(b) *Administrative responsibilities.* The Chairman is responsible on behalf of the Commission for the executive and administrative operation of the Commission, including functions of the Commission with respect to—

(1) The appointment and employment of Administrative Law Judges in accordance with the provisions of Title 5, United States Code.

(2) The selection, appointment, and fixing of the compensation of such personnel as he deems necessary.

(3) The supervision of personnel employed by or assigned to the Commission, except that each Commissioner may select and supervise personnel for his personal staff.

(4) The distribution of business among personnel and among administrative units of the Commission.

(5) The procurement of services of experts and consultants in accordance with section 3109 of Title 5, United States Code.

[45 FR 21222, Apr. 1, 1980, as amended by Order 613, 64 FR 73407, Dec. 30, 1999]

Subpart B—Commission Operation During Emergency Conditions

§ 376.201 Emergency condition defined.

For purposes of this subpart, emergency conditions:

- (a) Shall commence:

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(1) At the time of an armed attack upon the United States, or its territories or possessions;

(2) At the time the Commission is officially notified of the likelihood or imminence of such an attack; or

(3) At a time specified by the authority of the President; or

(4) At such time that the Commission's Continuity of Operations Plan is activated; and

(b) Shall continue until the Commission is officially notified of the end of such conditions.

[45 FR 21222, Apr. 1, 1980, as amended by Order 680, 71 FR 42595, July 27, 2006]

§ 376.202 Authority to move Commission offices.

The Commission may provide for removal of its headquarters to any location in the United States for the duration of emergency conditions. Consistent with directives of the Chairman, the Commission officer or employee in charge of a regional office of the Commission may move such office to a new location in the United States for the duration of emergency conditions.

§ 376.203 Mailing address of Commission during emergency conditions.

The Chairman may direct that during the continuance of emergency conditions, communications, filings, reports, or other submittals to the Commission shall be addressed to the Federal Energy Regulatory Commission, Official Mail and Messenger Service, United States Postal Service to such or other address as the Commission may designate.

§ 376.204 Delegation of Commission's authority during emergency conditions.

(a) *Delegation of authority to one or two Commissioners.* During emergency conditions, the Commission shall function as usual, if a quorum of the Commission is available and capable of acting. If by reason of such conditions a quorum of the Commission is not available and capable of acting, all functions of the Commission are delegated to the Commissioner or Commissioners who are available and capable of acting.

(b) *Delegation of authority to Commission staff.* (1) When, by reason of emergency conditions, there is no Commissioner available and capable of acting, the functions of the Commission are delegated to the first five members of the Commission staff on the list set forth in paragraph (b)(2) of this section who are available and capable of acting.

(2) The list referred to in paragraph (b)(1) of this section is:

(i) The Executive Director;

(ii) Director of the Office of Energy Market Regulation;

(iii) Director of the Office of Energy Projects;

(iv) Director of the Office of Electric Reliability;

(v) General Counsel;

(vi) Director of the Office of Enforcement;

(vii) Deputy Directors, Office of Energy Market Regulation, in order of seniority;

(viii) Deputy Directors, Office of Energy Projects, in order of seniority;

(ix) Deputy Directors, Office of Electric Reliability, in order of seniority;

(x) Deputy General Counsels, in order of seniority;

(xi) Associate General Counsels and Solicitor, in order of seniority;

(xii) Assistant Directors and Division heads, Office of Energy Market Regulation; Assistant Directors and Division heads, Office of Energy Projects; Assistant Directors and Division heads, Office of Electric Reliability; Deputy Associate General Counsels; and Assistant Directors and Division heads, Office of Enforcement; in order of seniority.

(3) For purposes of paragraph (b)(2) of this section order of seniority shall be based on the highest grade and longest period of service in that grade but without regard to the particular office or Division to which assigned.

(c) *Reconsideration of staff action taken under delegations.* Action taken pursuant to the delegations provided for in this section shall be subject to reconsideration by the Commission, acting with a quorum, within thirty days after the date upon which public notice is given that a quorum of the

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Commission has been reconstituted and is functioning.

[45 FR 21222, Apr. 1, 1980, as amended by Order 613, 64 FR 73407, Dec. 30, 1999; Order 632, 68 FR 25816, May 14, 2003; Order 680, 71 FR 42595, July 27, 2006; Order 699, 72 FR 45328, Aug. 14, 2007; Order 701, 72 FR 61055, Oct. 29, 2007]

§ 376.205 Delegation of Chairman's authority during emergency conditions.

When, by reason of emergency conditions, the Chairman is not available and capable of acting, his functions are delegated to the Commissioner available and capable of acting and who is designated by the President. Until such time as the President designates, or if no such Commissioner is designated, such functions are delegated to the Commissioner designated by the Chairman as Acting Chairman, but if such Acting Chairman is not available and capable of acting such functions are delegated to the Commissioner who is available and capable of acting and who has the longest tenure as a member of the Commission. If there is no Commissioner available and capable of acting, such functions are delegated to the person on the Commission staff who is available and capable of acting and who is highest on the list set forth in § 376.204(b)(2).

§ 376.206 Delegation of functions of certain Commission staff members.

When, by reason of emergency conditions, the Secretary, Director of any Office or Division, or officer in charge of a regional office, is not available and capable of carrying out his or her functions, such functions are delegated to staff members designated by the Chairman to perform such functions. If no staff member so designated is available and capable of carrying out their functions, such functions are delegated to the next subordinate employee in the Office or Division of the highest grade and longest period of service in that grade. If no subordinate employee of the Office or Division is available and capable of carrying out their functions, such functions are delegated to the Commission employee of the highest grade and longest period of service in

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that grade who is available and capable of carrying out their functions.

[Order 680, 71 FR 42595, July 27, 2006]

§ 376.207 Personnel and fiscal functions.

Subject to modifications or revocation by authority of the Executive Director, during the continuation of emergency conditions authority to effect temporary appointments of such additional officers and employees, to classify and allocate positions to their proper grades, to issue travel orders, and to effect emergency purchases of supplies, equipment and services shall be exercised by the respective Directors of Offices and officials in charge of regional offices, their deputies, or staff in line of succession, as may be required for the discharge of the lawful duties of such organization.

[Order 613, 64 FR 73408, Dec. 30, 1999, as amended by Order 699, 72 FR 45328, Aug. 14, 2007]

§ 376.208 Effect upon existing Commission requirements.

All outstanding Commission orders, rules and regulations shall remain in force and effect during the continuance of emergency conditions, except to the extent modified in accordance with authority exercised under this subpart.

§ 376.209 Procedures during periods of emergency requiring activation of the Continuity of Operations Plan.

(a)(1) The Commission's Continuity of Operations Plan is activated during emergency conditions lasting up to 30 days during which Commission headquarters operations may be temporarily disrupted or communications with the Commission's headquarters may be temporarily unavailable, either of which may prevent the public or the Commission from meeting regulatory or statutory requirements. The provisions of this paragraph are effective upon activation of the Plan. The Commission will notify the public that the Plan has been activated by sending a press release announcing that fact to major wire services, industry press, and appropriate metropolitan area radio stations announcing that the Commission has activated the Plan. The Commission's alternative Web site

(<http://www.fercalt.gov>) will be activated and a notice that the Plan has been activated will be prominently displayed thereon. The alternative Web site will act as a resource for the press, industry, and general public. An additional press release will be sent to appropriate media outlets when the Plan is deactivated and the Commission's headquarters constituted, and appropriate modifications made to the alternative Web site.

(2) During periods when the Continuity of Operations Plan is activated, the Commission will continue to act on requests to ensure continued construction of essential natural gas facilities with sensitive construction timelines, on Commencement of Service requests, and on completion of dam safety work, in a manner consistent with the maintenance of environmental protections. The Commission will further ensure that its personnel are available to respond to plant accidents or reportable incidents at LNG facilities, and address dam safety, public safety, and security incidents at jurisdictional hydropower projects. Alternate channels of communication will include measures to ensure that these activities can go forward unhindered.

(b) *Standards of conduct for transmission service providers.* During periods when the Commission's Continuity of Operations Plan is activated, a Transmission Provider affected by the same emergency affecting the Commission may, for 30 days, delay compliance with the requirement to report to the Commission each emergency that resulted in any deviation from the standards of conduct within 24 hours of such deviation. If the emergency prevents a Transmission Provider from posting information on the OASIS or Internet Web site, the Transmission Provider may, for 30 days, also delay compliance with the requirements of § 358.4(a)(2) of this chapter to post this information on the OASIS or Internet Web site, as applicable. Upon application by any such Transmission Provider, the Commission may extend these periods.

(c) *Tolling of time periods for Commission action.* The Commission tolls, for purposes of further consideration, the time period in which the Commission must act on the following matters if

the time period during which the Commission would ordinarily be required to act closes during the period when the Continuity of Operations Plan is activated:

(1) 60-day period to act on requests for Exempt Wholesale Generator or Foreign Utility Company status;

(2) 90-day period for acting on requests for certification of qualifying facility status;

(3) 60-day period for acting on interlocking directorate applications;

(4) 60-day period for acting on Public Utility Holding Company Act exemptions and waivers;

(5) 180-day period for acting on applications under § 203 of the FPA;

(6) 150-day period for acting on intrastate pipeline applications for approval of proposed rates;

(7) Period ending 60 days prior to the Electric Reliability Organization's (ERO) fiscal year for acting on the ERO's budget;

(8) 60-day period for acting on notifications that a Reliability Standard may conflict with a function, rule, order, tariff, rate schedule or agreement;

(9) 60-day period for acting on applications for review of a penalty imposed by the ERO for violation of a reliability standard;

(10) 45-day Protest period for protesting Prior Notice Filings, and the 30-day period for resolving and filing to withdraw such Protests;

(11) 30-day period for acting on requests for rehearing; and

(12) Time periods for acting on interlocutory appeals and certified questions.

(d) *Suspension of certain requirements.* During periods when the Commission's Continuity of Operations Plan is activated, requirements for the following filings, submissions, and notifications are suspended.

(1) Filings to comply with Commission orders, including orders issued by administrative law judges;

(2) Filings required to be made by a date certain under the Commission's regulations or orders;

(3) Motions to intervene and protests, and notices of intervention;

(4) Comments responding to proposed rulemakings or technical conferences;

(5) Responses to data requests;
 (6) Self-reports of violations;
 (7) Responses to staff audit reports;
 (8) Contacts with the Commission's Enforcement Hotline;

(9) Accounting filings required by the Commission's Uniform Systems of Accounts; and

(10) Forms required to be filed by a date certain.

(e) *Acceptance and Suspension of Rate Filings.* When the date by which the Commission is required to act on filings made pursuant to section 4 of the Natural Gas Act, sections 205 of the Federal Power Act, and section 6(e) of the Interstate Commerce Act falls during periods when the Continuity of Operations Plan is activated, such filings shall be deemed to be accepted and suspended and made effective on the requested effective date, subject to refund and further order of the Commission.

(f) *Electric Reliability Organization Penalties.* If the date on which an Electric Reliability Organization imposes a penalty under Federal Power Act §215 would take effect falls during a period when the COOP Plan is activated, review of such penalty by the Commission shall be deemed to be initiated and the penalty shall be stayed pending further action of the Commission.

(g) *Consistency of State action with reliability standard.* If the date by which a Commission determination under FPA §215 as to whether a State action is inconsistent with a reliability standard is required to be made falls during a period when the COOP Plan is activated, the effectiveness of the State action will be deemed to be stayed pending further action by the Commission.

(h) *Suspension of Evidentiary Hearings.* During periods when the Continuity of Operations Plan is activated, all hearings, prehearing conferences, settlement conferences, and meetings before administrative law judges are suspended.

(i) *Enforcement Actions.* During periods when the Continuity of Operations Plan is activated, the Commission will not initiate an enforcement action under section 210(h)(2) of the Public Utility Regulatory Policies Act of 1978.

[Order 680, 71 FR 42595, July 27, 2006]

PART 380—REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

Sec.

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APPENDIX A TO PART 380—MINIMUM FILING REQUIREMENTS FOR ENVIRONMENTAL REPORTS UNDER THE NATURAL GAS ACT

AUTHORITY: 42 U.S.C. 4321–4370a, 7101–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

SOURCE: Order 486, 52 FR 47910, Dec. 17, 1987, unless otherwise noted.

§ 380.1 Purpose.

The regulations in this part implement the Federal Energy Regulatory Commission's procedures under the National Environmental Policy Act of 1969. These regulations supplement the regulations of the Council on Environmental Quality, 40 CFR parts 1500 through 1508 (1986). The Commission will comply with the regulations of the Council on Environmental Quality except where those regulations are inconsistent with the statutory requirements of the Commission.

§ 380.2 Definitions and terminology.

For purposes of this part—

(a) *Categorical exclusion* means a category of actions described in §380.4,